

## PREFACE

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The amendments in this publication include the following:

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Part III. Air	AQ284ft	August 20, 2007
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Part V. Hazardous Waste	HW097	August 20, 2007
Part XI. Underground Storage Tanks	UT015	September 20, 2007

ft – Fast-Track Rule - Federal regulations promulgated in accordance with expedited procedures in R.S. 49:953(F)(3)

F – Federal Language

L – Louisiana Language

S – Substantive Changes to Proposed Rule

P – Rule resulting from a Petition for Rulemaking

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## Title 33 ENVIRONMENTAL QUALITY

### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures

### Chapter 15. Permit Application Review

#### §1501. Applicability

A. This Chapter applies to permit applications for new facilities and to applications for substantial permit modifications submitted to the department after the rule's effective date (date of publication in the *Louisiana Register*).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1341 (July 2007).

#### §1503. Definitions

A. For all purposes of this regulation, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

*Administratively Complete*—in reference to an application for a permit, that the application contains all of the information necessary for the administrative processing of the application. Designating an application administratively complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information. Required application information submitted under separate cover or separately from the application shall cause the administrative completeness determination to be delayed until such information is received, processed, and verified along with the other application information.

*Complete*—repealed.

\* \* \*

*Extraordinary Public Response*—that situation that exists where the quality and/or quantity of comments that are relevant and material to the permit are such as to necessitate additional time for department review.

*Final Decision*—action taken by the administrative authority to issue, deny, modify, revoke and reissue, or terminate a permit.

*New Facility*—a pollution source (including all emission points and units of the source located within a contiguous area and under common control) or any public or private property where an activity required to be permitted by the department has not yet commenced.

*Processing Day*—except as otherwise provided herein, a day during which an application is available to the department for review and decision in the permit decision development process. Non-processing days include, but are not limited to, any day the department:

- a. awaits from the applicant requested information that revises or supplements administrative or technical information or deficiencies in the application; or
- b. reviews the following information from the applicant, not to exceed 60 days per submittal:
  - i. department-requested information; or
  - ii. application revisions or additional information unsolicited by the department.

*Substantial Permit Modification*—a change that substantially alters the permitted facility or its operation as follows:

- a. for a hazardous waste permit, any Class 3 modification listed in LAC 33:V.322 or otherwise described in LAC 33:V.321.C.4;
- b. for a solid waste permit, any modification listed in LAC 33:VII.517.A.2.a, or otherwise determined by the administrative authority to warrant public notice;
- c. for a Louisiana Pollutant Discharge Elimination System (LPDES) permit, any modification not processed as a minor modification under LAC 33:IX.2905; and
- d. for an air quality permit, any modification that results in a significant increase in the amount of any regulated pollutant or results in the significant emission of any air pollutant not previously emitted.

*Suspended Application*—a permit application that is not eligible to be processed for a permit decision because administrative or technical information requested by the department has not been submitted by the applicant within the time period specified by the department. An application deemed suspended, if not denied, may be reinstated if the requested information is submitted to, and found to be adequate by, the department within six months from date of application suspension. In addition, the department may require the applicant to submit an updated application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1341 (July 2007).

#### §1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

##### A. Administrative Completeness Review

1. After receipt of a permit application for a new facility or an application for a substantial permit modification, the department shall perform an administrative completeness review and, if applicable, submit written

notification to the applicant that lists the application's specific administrative deficiencies or additional information needed for application processing. Permit application forms and checklists of required information in the permit application review process shall be provided to the applicant upon request.

2. The applicant shall respond to the notice of deficiency or the request for additional information within the amount of time specified in the notice or request. This response shall contain all of the information required by the department to proceed with processing the application, unless otherwise provided for in Subsection E of this Section.

3. Within 60 processing days from the date a permit application is submitted, the department shall:

- a. issue a letter of administrative completeness; or
- b. notify the applicant that the application has been suspended because the required administrative information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Within 30 days after receipt of a letter of administrative completeness, the applicant shall publish a notice, provided by the department, of the administrative completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Air Permits Division, Water Permits Division, or Waste Permits Division.

6. The requirement for publication of a notice of administrative completeness may be waived for applications for air quality permits for sources not defined as major in LAC 33:III.502 or 5103.

7. The requirement for publication of a notice of administrative completeness may be waived for applications for water quality permits for sources defined as minor by the administrative authority.

#### **B. Technical Review**

1. If at any time during the application review process the application is found to contain technical deficiencies, or if additional information is needed to correct or clarify the application, the department shall provide a written notice or request to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of technical deficiency or request for additional information within the time specified in the notice or request. This response shall be deemed adequate only if it contains all of the information specified in the notice of technical deficiency or request for additional information as required by the department to complete the review of the application.

3. If the applicant does not supply the required information within the time period specified in the notice of

technical deficiency or request for additional information, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

#### **C. Final Decision**

1. The secretary or his designee shall issue a final decision within 300 processing days from the submission date of the application.

2. The 300-processing-day deadline shall be extended where additional time is required:

- a. for the applicant to revise or supplement the application to address technical information or deficiencies in the application;
- b. for adjudicatory or judicial proceedings under R.S. 30:2024;
- c. for required review by the United States Environmental Protection Agency; or
- d. for consideration of comments received at a public hearing in the case of an extraordinary public response, however in no case shall the extension for consideration of comments exceed 45 days.

**D. Exceptions.** Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and pipelines.

1. Within 14 workdays after submittal of a permit application, the department shall perform an administrative completeness review and make a determination as follows.

- a. If the application is deemed administratively complete, the department shall issue notification of the administrative completeness determination to the applicant.
- b. If the application is not deemed administratively complete, the department shall notify the applicant in writing and provide a list of the application's specific administrative deficiencies. This notice shall specify the date by which the administrative information is to be submitted.

2. If, during the technical review, additional information is needed, the department shall notify the applicant in writing and shall specify the date by which the information is to be submitted.

3. If the applicant does not submit the required administrative or technical information within the specified time period as requested by the department, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Within 60 processing days after a permit application has been submitted to the department, the secretary or his designee shall issue a final decision to grant or to deny the permit.

6. In the event of a permit denial, the secretary or his designee shall provide written reasons for the decision to all parties.

7. If the secretary or his designee does not grant or deny the permit within the time period provided for herein, the applicant may file a rule as provided for in R.S. 49:962.1.

**E. Extensions.** Any deadline established by this Section may be extended. A request for an extension of any deadline shall be submitted in writing by the permit applicant or by the secretary or his designee. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days of receipt of the request.

#### **F. Withdrawal of Permit Application**

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Air Permits Division, Water Permits Division, or Waste Permits Division, in writing with the appropriate signatory authority, and:

a. the applicant has voluntarily submitted an application for a new facility and such an application is not required other than to gain permission to operate; or

b. the applicant has voluntarily submitted an application to modify an existing permit and such a permit modification would not be required other than to operate in a different manner.

2. Following withdrawal, any subsequent submission will be considered a new application.

3. Following withdrawal, the requirements of this Chapter will be reinitiated upon the submittal of a new application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2022(B).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:1342 (July 2007).

## Title 33 ENVIRONMENTAL QUALITY

### Part III. Air

#### Chapter 5. Permit Procedures

##### **§506. Clean Air Interstate Rule Requirements**

A. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO<sub>x</sub>) Annual Program. This Subsection is adopted in lieu of 40 CFR 97.141 and 97.142 as promulgated under the CAIR Federal Implementation Plan (FIP) NO<sub>x</sub> Annual Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AA – HH, continue to apply, with the exception of §97.141 (Timing Requirements for CAIR NO<sub>x</sub> Allowance Allocations) and §97.142 (CAIR NO<sub>x</sub> Allowance Allocations). The provisions of this Subsection state how the CAIR NO<sub>x</sub> annual allowances shall be allocated in accordance with this Section and 40 CFR 97.144(a).

1. Definitions. The terms used in Subsection A of this Section have the meaning given to them in the CAIR FIP (40 CFR Part 97 as promulgated on April 28, 2006), except for those terms defined herein.

*Certified Unit or Contract*—an electricity-generating unit or contract that has been certified by the LPSC or approved by a municipal authority but was not in operation on, or approved by, December 31, 2004.

*Department*—the Louisiana Department of Environmental Quality.

*LPSC*—the Louisiana Public Service Commission.

*LPSC or Municipal Certification*—the process under which the LPSC certifies, or the relevant municipal authority approves, an electricity-generating facility and/or all of its component units, additions, and up-rated or re-powered units as being in the public convenience and necessity. This process includes the certification or approval of long-term contracts that dedicate a portion of the electrical output of any generation facility to a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or utility unit expects to receive power under the contract within one year of the contract execution.

*Municipal Authority*—a municipal corporation, public power authority, or other political subdivision including, but not limited to, the Louisiana Energy and Power Authority.

*Non-Utility Unit*—an electricity-generating unit that has not been certified by the LPSC or approved by a municipal authority, and that does not have an effective and active long-term contract with a utility unit. This includes, but is not limited to, units owned by independent power producers (IPPs) that are the owners or operators of electricity-generating units that produce electricity for sale, and *cogeneration units* as defined in 40 CFR Part 97.

*Utility Unit*—a certified unit that is in operation, a previously-operational certified unit, or a non-utility unit

that has an effective and active long-term contract with a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or utility unit expects to receive power under the contract within one year of the contract execution.

2. Allocation of CAIR NO<sub>x</sub> Annual Allowances. Total NO<sub>x</sub> allowances allocated per control period shall not be in excess of the CAIR NO<sub>x</sub> annual budget as found in 40 CFR 97.140 (35,512 tons per control period from 2009-2014 and 29,593 tons per control period thereafter).

a. Non-Utility Units. For each CAIR non-utility unit, the NO<sub>x</sub> allowances shall be equal to the average of the actual NO<sub>x</sub> annual emissions of the three calendar years immediately preceding the year in which the control period allocations are submitted to the administrator. The actual NO<sub>x</sub> annual emissions as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO<sub>x</sub> emissions for calendar years 2002, 2003, and 2004. When data is not available in the emission inventory, data reported to the Federal Acid Rain Program shall be used. When actual reported NO<sub>x</sub> annual emissions data are available for only two of the three calendar years immediately preceding the deadline for submission of the control period allocations, the average of the actual reported NO<sub>x</sub> annual emissions data for those two years shall be used. When actual reported NO<sub>x</sub> annual emissions data are available for only one of the three calendar years, the actual reported NO<sub>x</sub> annual emissions data for that one year shall be used. When no actual reported NO<sub>x</sub> annual emissions data for any of the three calendar years are available, no allocations shall be made under this Paragraph.

b. Certified Units. A certified unit subject to CAIR shall be allocated NO<sub>x</sub> allowances for the control period in which the unit will begin operation, and for each successive control period, for which no NO<sub>x</sub> allowances have been previously allocated until operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three calendar years of operating data immediately preceding the allocation submittal deadline, the converted heat input as calculated in Clause A.2.b.i or ii of this Section shall be used to allocate allowances for the unit. The certified unit shall be treated as a utility unit for the purposes of this allocation, except that converted heat input shall be used instead of adjusted heat input. Converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion



to the unit's share of the total control period heat input of all the units for the year.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. Utility Units. The department shall allocate CAIR NO<sub>x</sub> allowances to each CAIR utility unit by multiplying the CAIR NO<sub>x</sub> budget for Louisiana (40 CFR 97.140), minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the adjusted baseline heat input of the CAIR utility unit and/or converted heat input of a certified unit to the total amount of adjusted baseline heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The adjusted baseline heat input (in MMBTU) used with respect to the CAIR NO<sub>x</sub> annual allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period adjusted heat input for calendar years 2002, 2003, and 2004), with the control period adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause A.2.c.i.(a) or (b) of this Section, the unit's control period heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period heat input, status as coal-fired or oil-fired, and total tons of NO<sub>x</sub> emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

### 3. Timing Requirements for CAIR NO<sub>x</sub> Annual Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR NO<sub>x</sub> annual allowance allocations, in a format prescribed by the administrator and

in accordance with Paragraph A.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator CAIR NO<sub>x</sub> annual allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

**B. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO<sub>x</sub>) Ozone Season Program.** This Subsection is adopted in lieu of 40 CFR 97.341 and 97.342 as promulgated under the CAIR Federal Implementation Plan (FIP) NO<sub>x</sub> Ozone Season Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AAAA – HHHH, continue to apply, with the exception of §97.341 (Timing Requirements for CAIR NO<sub>x</sub> Ozone Season Allowance Allocations) and §97.342 (CAIR NO<sub>x</sub> Ozone Season Allowance Allocations). The provisions of this Subsection state how the CAIR NO<sub>x</sub> ozone season allowances shall be allocated in accordance with this Section and 40 CFR 97.343(a).

1. Definitions. The terms used in Subsection B of this Section have the meaning given to them in the CAIR FIP (40 CFR Part 97 as promulgated on April 28, 2006), and in Paragraph A.1 of this Section.

2. Allocation of CAIR NO<sub>x</sub> Ozone Season Allowances. Total NO<sub>x</sub> ozone season allowances allocated per control period shall not be in excess of the CAIR NO<sub>x</sub> ozone season budget as found in 40 CFR 97.340 (17,085 tons per control period from 2009-2014 and 14,238 tons per control period thereafter).

a. Non-Utility Units. For each CAIR non-utility unit, the NO<sub>x</sub> allowances shall be equal to the average of the actual NO<sub>x</sub> ozone season emissions of the three calendar years immediately preceding the year in which the control period allocations are submitted to the administrator. The actual NO<sub>x</sub> ozone season emissions as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO<sub>x</sub> emissions for calendar years 2002, 2003, and 2004 that were reported to the Federal Acid Rain Program. When data is not available in the emission inventory, data reported to the Federal Acid Rain Program shall be used. When actual reported NO<sub>x</sub> ozone season emissions data are available for only two of the three calendar years immediately preceding the deadline for submission of the control period allocations, the average of the actual reported NO<sub>x</sub> ozone season emissions data for those two years shall be used. When actual reported NO<sub>x</sub> ozone season emissions data are available for only one of the three calendar years, the actual reported NO<sub>x</sub> ozone season emissions data for that one year shall be used. When no actual reported NO<sub>x</sub> ozone season emissions data for any of the three calendar years are available, no allocations shall be made under this Paragraph.

b. Certified Units. A certified unit subject to CAIR shall be allocated NO<sub>x</sub> allowances for the ozone season of

the control period in which the unit will begin operation, and for each successive ozone season in a control period, for which no NO<sub>x</sub> allowances have been previously allocated until ozone season operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three years of ozone season operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause B.2.b.i or ii of this Section shall be used to allocate ozone season allowances for the unit. The certified unit shall be treated as a utility unit for purposes of this allocation, except that ozone season converted heat input shall be used instead of ozone season adjusted heat input. Ozone season converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the specified ozone season.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the specified ozone season.

c. Utility Units. The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to each CAIR utility unit by multiplying the CAIR NO<sub>x</sub> ozone season budget for Louisiana (40 CFR 97.340), minus the allowances allocated under Subparagraph B.2.a of this Section, by the ratio of the ozone season adjusted baseline heat input of the CAIR utility unit and/or converted heat input of a certified unit to the total amount of ozone season adjusted baseline heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The ozone season adjusted baseline heat input (in MMBTU) used with respect to the CAIR NO<sub>x</sub> ozone season allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period ozone season adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the

allocation submitted in 2007 shall use the average of the control period ozone season adjusted heat input for calendar years 2002, 2003, and 2004), with the control period ozone season adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause B.2.c.i.(a) or (b) of this Section, the unit's control period ozone season heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period ozone season heat input, status as coal-fired or oil-fired, and total tons of NO<sub>x</sub> ozone season emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

### 3. Timing Requirements for CAIR NO<sub>x</sub> Ozone Season Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR NO<sub>x</sub> ozone season allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator the CAIR NO<sub>x</sub> ozone season allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

#### C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007).

## §507. Part 70 Operating Permits Program

#### A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519,

unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2006. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

#### C. – J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007).

## Chapter 21. Control of Emission of Organic Compounds

### Subchapter N. Method 43—Capture Efficiency Test Procedures

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

#### §2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2006, are hereby incorporated by reference.

#### B. – C.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007).

## Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

### Subchapter A. Incorporation by Reference

#### §3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2006, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 60, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443.

#### B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007).

## Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

### Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

#### §5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2006, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 61, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443.

40 CFR Part 61	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Appendix C]	

**B. – C. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007).

**Subchapter C. Incorporation by  
Reference of 40 CFR Part 63  
(National Emission Standards for  
Hazardous Air Pollutants for Source  
Categories) as It Applies to Major  
Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63  
(National Emission Standards for Hazardous Air  
Pollutants for Source Categories) as It Applies to  
Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2006, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 63, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443, applicable to major sources.

**B. – C.3. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007).

**Chapter 53. Area Sources of Toxic Air  
Pollutants**

**Subchapter B. Incorporation by  
Reference of 40 CFR Part 63  
(National Emission Standards for  
Hazardous Air Pollutants for Source  
Categories) as It Applies to Area  
Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63  
(National Emission Standards for Hazardous Air  
Pollutants for Source Categories) as It Applies to  
Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2006, and specifically listed in the following table, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the revisions to 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Facilities, applicable to area sources, promulgated on January 3, 2007, in the *Federal Register*, 72 FR 26, and revisions to 40 CFR Part 63, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443, applicable to area sources.

40 CFR Part 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Subpart T]	
Subpart X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
Subpart HH	National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Facilities
Subpart EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
* * *	
[See Prior Text in Subpart LLL – Subpart IIIII]	

**B. – C. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007).

## **Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

### **Subchapter A. General Provisions**

#### **§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2006.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007).

## Title 33

## ENVIRONMENTAL QUALITY

### Part V. Hazardous Waste and Hazardous Materials

#### Subpart 1. Department of Environmental Quality—Hazardous Waste

#### Chapter 1. General Provisions and Definitions

##### §109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

\* \* \*

*Groundwater*—water located beneath the ground surface or below a surface water body in a saturated zone or stratum.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007).

#### Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

##### §305. Scope of the Permit

A. – D.2.e. ...

f. submits a complete report within five days of receiving any hazardous waste on an unmanifested basis;

g. complies with all recordkeeping requirements of LAC 33:V.Subpart 1; and

D.2.h. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690, 1759 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3116 (December 2005), LR 33:1625 (August 2007).

##### §323. Suspension, Modification or Revocation and Reissuance, and Termination of Permits

A. ...

B. If the administrative authority decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the administrative authority may be appealed to the Department of Environmental Quality (DEQ), Legal Affairs Division, in accordance with R.S. 30:2050.21.

1. – 4.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005), LR 33:1625 (August 2007).

#### Chapter 5. Permit Application Contents

#### Subchapter C. Permit Applications: Parts I and II

##### §517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are

necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a Louisiana registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

**A. – T.4.c. ...**

i. delineates the extent of the plume on the topographic map such as required under LAC 33:V.515.A.15; and

**T.4.c.ii. – W. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), LR 25:1799 (October 1999), repromulgated LR 26:1608 (August 2000), repromulgated LR 26:2003 (September 2000), amended LR 27:287 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1625 (August 2007).

## Chapter 23. Waste Piles

### §2309. Monitoring and Inspection

**A. – B.1. ...**

2. proper functioning of wind dispersal control systems, where present;

3. the presence of leachate in and proper functioning of leachate collection and removal systems, where present. Leachate must be disposed of properly; and

**B.4. – C. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007).

## Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

### §3013. Standards to Control Metals Emissions

**A. – B.2.b.ii. ...**

3. Terrain-Adjusted Effective Stack Height (TESH)

**B.3.a. – I. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996), repromulgated LR 22:980 (October 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007).

## Chapter 37. Financial Requirements

### Subchapter F. Financial and Insurance Instruments

#### §3719. Wording of the Instruments

**A.** A trust agreement for a trust fund as specified in LAC 33:V.3707.A or 3711.A or 4403.A or 4407.A must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

1. The wording of the trust agreement is as follows.

**Trust Agreement**

\* \* \*

[See Prior Text in Trust Agreement]

**A.2. – N.2, certification ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004), LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005), LR 33:1626 (August 2007).

## Chapter 43. Interim Status

### Subchapter C. Contingency Plan and Emergency Procedures

#### §4339. Purpose and Implementation of Contingency Plan

A. Interim status facilities must comply with LAC 33:V.1513.A.1 and 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007).

### Subchapter D. Manifest System, Recordkeeping, and Reporting

#### §4357. Operating Record

A. – B.2. ...

3. the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1 of this Section:

Table 1. Units For Reporting	
Units of Measure	Code <sup>1</sup>
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds per Hour	J
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
British thermal units per Hour	I
<sup>1</sup> Single digit symbols are used here for data processing purposes.	

4. – 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007).

### Subchapter M. Landfills

#### §4501. Closure and Post-Closure

A. ...

B. In the closure and post-closure plans, the owner or operator must address the following objectives and indicate how they will be achieved:

1. control pollutant migration from the facility via groundwater, surface water, and air;

2. control surface water infiltration, including prevention of pooling;

B.3. – D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1627 (August 2007).

## Chapter 49. Lists of Hazardous Wastes

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

#### §4901. Category I Hazardous Wastes

A. – B.2.b.i.(c). ...

(d). high-rate aeration, which is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes, enhancing biological activity, and:

(i). the unit employs a minimum of 6 hp per million gallons of treatment volume; and either

(ii). the hydraulic retention time of the unit is no longer than five days; or

(iii). the hydraulic retention time is no longer than 30 days, and the unit does not generate a sludge that is a hazardous waste by the Toxicity Characteristic;

ii. generators and treatment, storage, and disposal facilities have the burden of proving that their sludges are



exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage, and disposal facilities must maintain, in their operating or other onsite records, documents and data sufficient to prove that:

(a). the unit is an aggressive biological treatment unit as described in Clause B.2.b.i of this Section; and

(b). the sludges sought to be exempted from the definitions of F037 and/or F038 were actually generated in the aggressive biological treatment unit.

**B.2.c. – G, Table 6. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987),

LR 14:426 (July 1988), LR 14:791 (November 1988), LR 15:182 (March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829, 840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:831 (May 2006), LR 33:1627 (August 2007).

## Title 33

### ENVIRONMENTAL QUALITY

#### Part XI. Underground Storage Tanks

#### Chapter 4. 2005 Federal Underground Storage Tank Compliance Act Mandated Requirements

##### §401. Purpose

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1867 (September 2007).

##### §403. Delivery Prohibition of Regulated Substances to Underground Storage Tank Systems

A. Underground storage tank (UST) systems, except for those systems deferred or exempted from specified Chapters and Sections of these regulations in accordance with LAC 33:XI.101.C, that do not meet any one of the following requirements, upon discovery by the department, shall be subject to the status of red tag/delivery prohibition of regulated substances:

1. installation of spill prevention equipment in accordance with LAC 33:XI.Chapter 3;
2. installation of overfill protection equipment in accordance with LAC 33:XI.Chapter 3;
3. establishment of release detection methods or installation of release detection equipment in accordance with LAC 33:XI.Chapter 7;
4. installation of corrosion protection equipment in accordance with LAC 33:XI.Chapter 3;
5. compliance with LAC 33:XI.301.C.4; or
6. upon evidence of a below-surface release from an UST system, initiation by the owner/operator of release investigation and confirmation steps in accordance with LAC 33:XI.711, or compliance with the release response and corrective action requirements in LAC 33:XI.715.

B. Noncompliance with these regulations as listed in this Subsection shall result in a red tag/delivery prohibition of regulated substances if response action is not taken by the owner/operator within 30 days of receipt of written notification by the department to the owner/operator. Response action will be considered as taken if the owner/operator has contracted and scheduled the action to take place within those 30 days and the response action has been initiated within 60 days of receipt of the written notification. The forms of noncompliance are:

1. failure to properly operate and/or maintain release detection equipment in accordance with LAC 33:XI.Chapter 7. Failure to provide records, within 10 days of request by the department, showing proper operation and/or maintenance of release detection equipment shall be considered a failure to properly operate and/or maintain the release detection equipment;

2. failure to properly operate and/or maintain spill, overfill, or corrosion protection equipment in accordance with LAC 33:XI.Chapter 5. Failure to provide records, within 10 days of request by the department, showing the type of spill, overfill, or corrosion protection equipment installed and the proper operation and/or maintenance of spill, overfill, or corrosion protection equipment shall be considered a failure to properly operate and/or maintain the spill, overfill, or corrosion protection equipment;

3. failure to maintain financial responsibility in accordance with LAC 33:XI.Chapter 11;

4. failure to protect from corrosion buried metal piping and/or components that routinely contain regulated substances in accordance with LAC 33:XI.303.B.2 and C.4. Failure to produce records, within 10 days of request by the department, showing procedures and/or practices designed to protect from corrosion buried metal piping and/or components that routinely contain regulated substances shall be considered a failure to protect from corrosion buried metal piping and/or components that routinely contain regulated substances.

C. It shall be unlawful for any person to place, or allow the placement of, a regulated substance into an UST that the department has red tagged/prohibited from delivery of regulated substances under Subsection A or B of this Section. The department may use its discretion in determining whether a non-delivery due to a red tag/delivery prohibition of regulated substances may jeopardize the availability of, or access to, motor fuel in remote areas of the state or in cases where an emergency declaration is in effect. When the department determines that red tagging/delivery prohibition will jeopardize the availability of, or access, to regulated substances, specifically motor fuels, in remote areas or in cases of an emergency declaration, it may allow for continued delivery of regulated substances, for up to 180 days, to an UST that has failed to have equipment required under Subsection A of this Section installed or that has been deemed noncompliant by the department under Subsection B of this Section.

D. The department shall provide adequate notice to UST system owners/operators and regulated substance deliverers that an UST has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance. Placing or allowing placement of a regulated substance into an UST determined ineligible for delivery, deposit, or acceptance of a regulated substance constitutes a violation of this Section.

E. The owner/operator of an UST that has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance must make the

necessary system repairs or upgrades, or remedy any form of noncompliance, and must be cleared of the red tag/delivery prohibition in writing by the department, or a person authorized by the department, in order to be removed from the red tag listing and be deemed eligible for delivery of regulated substances. The department, or a person authorized by the department, shall remove the red tag/delivery prohibition status for an UST system within two working days after compliance and/or upgrade or repair has been demonstrated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1867 (September 2007).